

**Minutes
HEARING OFFICER
SEPTEMBER 2, 2008**

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:

David Williams, Hearing Officer
Steve Abrahamson, Planning & Zoning Coordinator
Sherri Lesser, Senior Planner
Shawn Daffara, Planner II
Nick Graves, Planning Intern

Number of Interested Citizens Present: 15

Meeting convened at 1:30 PM and was called to order by Mr. Williams. He noted that anyone wishing to appeal a decision made today by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days by September 16, 2008 at 3:00 PM to the Development Services Department.

1. Mr. Williams approved the Hearing Officer Minutes for August 19, 2008.

2. Mr. Williams noted that the following case(s) had been continued:

Hold a public hearing for a request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **HUMMEL RESIDENCE (PL080276/ABT08018)** (Michael & Patricia Hummel, property owners) Complaint CE083906 located at 438 East Pierce Street in the R1-6, Single Family Residential District.

CONTINUED TO THE SEPTEMBER 16, 2008 HEARING OFFICER HEARING

3. Hold a public hearing for a request by the **BROWN RESIDENCE (PL080271)** (Jared Malone/Design Profile, applicant; G. Robert Brown, property owner) located at 2079 East La Vieve Lane in the AG, Agricultural District for:

ZUP08122 Use permit to allow an accessory building (garage expansion of an existing building).

Mr. Jared Malone was present to represent this case.

Shawn Daffara, staff planner, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued. One phone call of concern was received last Thursday regarding the driveway location.

DECISION:

Mr. Williams approved PL080271/ZUP08122 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division.
2. The approval is based on the plans as reviewed and approved by the Hearing Officer.
3. The accessory building shall not be used as a separate living unit/guest quarters (no cooking facilities). Only one residential unit per lot is allowed in the AG, Agricultural District.
4. Any further expansion of the accessory building will require a new use permit.

4. Hold a public hearing for a request by **VERIZON WIRELESS – PHO FOUNTAINHEAD (PL080279)** (Steven Ciolek/SRES, applicant; Tempe Fountainhead Corporate LLC, property owner) located at 1625 West Fountainhead Parkway in the GID, General Industrial District for:

ZUP08126 Use permit to add additional antennas on an existing cellular tower (monopine).

Mr. Steven Ciolek was present to represent this case.

Shawn Daffara, staff planner, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued.

Mr. Williams expressed concern as to whether the current monopine structure would adequately camouflage the increased antenna area. He asked if some portions of the existing monopine could be replaced with larger camouflage areas so it would appear more natural. Mr. Ciolek responded that some of the branches would be removed and the replacements would provide better camouflage.

Mr. Ciolek requested deletion of Condition of Approval No. 5 which requires that a tree be planed south of the mono-pine. It was determined by the Hearing Officer that this Condition would be retained.

DECISION:

Mr. Williams approved PL080279/ZUP08126 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division of the Development Services Department.
2. Any intensification or expansion of use, including co-location of additional antennas, will require a new use permit.
3. The wireless device shall be removed within 30 days of discontinuance of use.
4. Applicant shall remove and replace the dead tree located to the west of the mono-pine. New tree shall be "Eldarica Pine" or similar, 24" box in size. Details to be resolved during building permit plan review.
5. Applicant shall plant an "Eldarica Pine" or similar to the south of the mono-pine. Tree to be 24" box in size. Details to be resolved during Building Safety plan review.
6. Applicant shall re-paint all chipped and peeling paint on the existing mono-pine. Paint to match existing.
7. The enclosure gate shall require lighting that meets five (5) foot candles at the gate and two (2) foot candles with 15' radius. Details to be resolved during Building Safety plan review.
8. All light fixtures shall be full cut off design and comply with Zoning and Development Code, Part 4, Chapter 8.

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5. Hold a public hearing for a request by the **ROTH RESIDENCE (PL080292)** (Jack DeBartolo/DeBartolo Architects Ltd., applicant; Justin & Keri Roth, property owners) located at 1730 South El Camino Drive in the R1-6, Single Family Residential District for:

ZUP08127 Use permit to allow the rebuild of a single story to a two story building.

Mr. Jack DeBartolo was present to represent this case. He presented three (3) letters of neighborhood support to the Hearing Officer.

Nick Graves, staff planner, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued.

Mr. Williams asked if there were any detailed renderings and/or elevations as he was concerned as to how this structure would appear from the street, privacy issues and how it fits with the character of the neighborhood. Mr. DeBartolo responded that he did not have any additional renderings available at this hearing, however the new structure took into account the character of the neighborhood and would be compatible.

DECISION:

Mr. Williams continued PL080292/ZUP08127 to the September 16, 2008 Hearing Officer hearing to allow elevations and additional material to be presented by the applicant. Staff was requested to plot the neighborhood letters of support in relation to the house site.

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6. Hold a public hearing for a request by **CENTERPOINT ON MILL - CAMPUS SCOOTERS BY BAJA (PL080293)** (Coty Rudhe, applicant; Centerpoint Development Partners LP, property owner) located at 690 South Mill Avenue in the CC, City Center District for:

ZUP08128 Use permit to allow vehicle sales (scooters) with outdoor display.

Ms. Coty Rudhe was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued.

DECISION:

Mr. Williams approved PL080293/ZUP08128 subject to the following conditions:

1. The use permit is valid for Campus Scooters by Baja and may be transferable with approval from the Board of Adjustment staff. Should the business be sold, the new owners must contact the Board of Adjustment staff for review of the business operation.
 2. Any intensification or expansion of the use shall require the applicant to return to the Hearing Officer/Board of Adjustment for further review.
 3. The applicant shall devise a security plan in conjunction with City of Tempe Crime Prevention Department (480-858-6027) prior to the use permit becoming effective.
 4. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing set to re-evaluate the appropriateness of the use permit.
 5. Any new business signs are to have Development Plan Review approval, and permits are to be obtained prior to the installation of signs.
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7. Hold a public hearing for a request by **BASHAS VALLEY PLAZA CENTER – GOLD BAR ESPRESSO (PL080299)** (Karen Miller, Applicant; Weingarten Nostat Inc., property owner) located at 3141 South McClintock Drive, Suite No. 6 in the PCC-1, Planned Commercial Center Neighborhood District for:

ZUP08129 Use permit to allow live entertainment (indoor/outdoor).

Karen & Dennis Miller were present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued.

A representative from Weingarten Nostat, the property owner, stated that they were in support of this request.

Dennis Miller explained that the same four (4) people have played acoustic jazz at this location for the past six (6) years and that it was non-disruptive. On Fridays and Sundays they play from 6:30/7 PM until 10:30/11 PM. A classical guitarist plays on Sunday mornings from 9 AM to 11 AM in the back corner. They want to be able play to midnight on New Year's Eve. Occasionally two (2) players will perform on Saturday nights.

DECISION:

Mr. Williams approved PL080299/ZUP08129 subject to the following conditions:

1. The use permit is valid for the Gold Bar Espresso and may be transferable to successors in interest through an administrative review with the Development Services Manager, or designee.
2. Any intensification or expansion of this use shall require the applicant to return to the appropriate decision-making body for a new use permit.
3. Music generated from the use shall conform to the City of Tempe code requirements for noise control.
4. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
5. The applicant shall work with the Tempe Police Department – Crime Prevention Department (480-858-6027) to implement a Security Plan for the business.
6. Smoking on the patio shall not violate the City of Tempe Smoking Ordinance or Smoke Free Arizona Act A.R.S. §36-601.01.
7. **Live entertainment may be performed from the hours of 9 AM to 11 PM on days that Gold Bar Espresso is open for business. ADDED BY HEARING OFFICER**

8. Hold a public hearing for a request by **AMERICAN TOWER CORPORATION – RELIANCE X185-A (PL080300)** (Ronnie Hyde/American Tower Corporation, applicant; Presson Advisory LLC, property owner) located at 1414 West Broadway Road in the CSS, Commercial Shopping and Services District for:

ZUP08130 Use permit to allow a cellular tower (monopalm).

Mr. Ronnie Hyde was present to represent this case.

Shawn Daffara, staff planner, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued.

DECISION:

Mr. Williams approved PL080300/ZUP08130 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division.
2. The mono-palm shall be no greater than 55'-0" (fifty-five feet) in height (to the top of the mono-palm's fronds) as per plans submitted with this request.
3. Any intensification or expansion of use, including co-location of additional antennas, will require a new use permit.
4. A minimum of two (2) twenty foot (20') brown trunk Mexican Faux Palm trees shall be planted to complement the proposed mono-palm on site. Details to be resolved through the Building Permit Plan Review process.
5. The applicant shall install a new seven foot (7') wide, 120 s.f. landscape island, adjacent to the equipment enclosure to bring existing parking row into compliance with Zoning and Development Code. Details to be resolved through the Building Permit Plan Review process.
6. The wireless device shall be removed within 30 days of discontinuance of use.
7. The enclosure gates shall require lighting to meet five (5) foot candles at the gate and two (2) foot candles within a 15' radius.

9. Hold a public hearing for a request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **LASCHOBBER RESIDENCE (PL080284/ABT08019)** (Jon Laschober, property owner) Complaint CE081602 located at 6817 South Roosevelt Street in the R1-4, Single Family Residential District.

No one was present to represent the property owner.

Ms. Brandy Zedlar, City of Tempe – Neighborhood Enhancement Department, stated that she had inspected the property today and that it had been cleaned up and was now in compliance. Neighborhood Enhancement was thereby withdrawing this request for abatement.

10. Hold a public hearing for a request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **LAFRANCE RESIDENCE (PL080285/ABT08020)** (Kathi LaFrance, property owner) Complaint CE082687 located at 2330 West Carson Drive in the R-2, Multi-Family Residential District.

No one was present to represent the property owner.

Ms. Brandy Zedlar, City of Tempe – Neighborhood Enhancement Department, stated that she had inspected the property today and that it had been cleaned up and was now in compliance. Neighborhood Enhancement was thereby withdrawing this request for abatement.

11. Hold a public hearing for a request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **VARELA RESIDENCE (PL080287/ABT08021)** (Manuel Varela, property owner) Complaint CE080876 located at 5836 South College Avenue in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Ms. Brandy Zedlar, City of Tempe – Neighborhood Enhancement Department, stated that she had inspected the property this morning. Although there had been some improvement, it was not complete and this property had been an ongoing problem. No response had been received from the property owner on the issued citations.

DECISION:

Mr. Williams approved abatement proceedings for PL080287/ABT08021.

12. Hold a public hearing for a request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **ORTEGA RESIDENCE (PL080288/ABT08022)** (Robert Ortega, property owner) Complaint CE082882 located at 2714 West Dunbar Drive in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Ms. Brandy Zedlar, City of Tempe – Neighborhood Enhancement Department, stated that this morning's inspection indicated that the front yard had been mowed; the back yard was still not in compliance. This property owner has not responded to any of the citations issued. Research revealed there were numerous liens on the property. An inoperable vehicle is now located in the driveway area which was not there before.

DECISION:

Mr. Williams approved abatement proceedings for PL080288/ABT08022.

13. Hold a public hearing for a request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **WENZEL RESIDENCE (PL080291/ABT08023)** (Bill Wenzel, property owner) Complaint CE085245 located at 1006 South Una Avenue in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Ms. Michelle Arnieri, City of Tempe – Neighborhood Enhancement Department, stated that considerable work had been done since the abatement process was instigated. However no response had been received from the property owner in regard to an e-mail from COT-NE outlining the three (3) items that remained undone. This is the fourth (4th) abatement hearing for this property.

DECISION:

Mr. Williams approved abatement proceedings for PL080291/ABT08023 for an open period of one hundred eighty (180) days.

14. Hold a public hearing for a request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **COX RESIDENCE (PL080294/ABT08024)** (Amos Cox, property owner) Complaint CE075550 located at 1107 West 10th Street in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Mr. Chantz Tieman, City of Tempe – Neighborhood Enhancement Department, stated that significant work had been accomplished. He asked for a two (2) week continuance to the September 16th Hearing Officer hearing.

DECISION:

Mr. Williams continued abatement proceedings for PL080294/ABT08024 to the September 16, 2008 Hearing Officer hearing.

The next Hearing Officer public hearing will be held on **Tuesday, September 16, 2008.**

There being no further business the public hearing adjourned at 2:23PM.

Prepared by: Diane McGuire, Administrative Assistant II
Reviewed by:



Steve Abrahamson, Planning and Zoning Coordinator
for David Williams, Hearing Officer

SA:dm